

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

CenterPoint Energy Gas Transmission Company Docket No. RP96-200-102

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT
TO REFUND AND CONDITIONS AND FURTHER REVIEW

(Issued June 13, 2003)

1. On May 16, 2003, CenterPoint Energy Gas Transmission Company (CEGT) filed revised tariff sheets to implement two new negotiated rate transactions under Rate Schedules FT and PHS.¹ For the reasons discussed below, the Commission will waive the notice requirements of Section 154.207 of the regulations, and accept and suspend First Revised Sheet No. 861 and Second Revised Sheet No. 862, to be effective May 16, 2003, subject to refund and conditions and further review. This order benefits the public by allowing the Commission to obtain necessary information to determine whether the proposed rates and terms of service are just and reasonable and not unduly discriminatory.

Details of the Filing

2. CEGT's new negotiated rate transactions are with Entergy Arkansas, Inc., (Entergy). Under the terms of contract number 1003576, pertaining to the FT agreement, contract demand is 100,000 Dth/Day through October 31, 2003 and 50,000 Dth/Day from November 1, 2003 through April 30, 2004. Shipper is to pay a commodity charge ranging from \$0.105 to \$0.195 per Dth depending on the CEGT Pooling Area receipt point used. There are six delivery points on Entergy's and CEGT's systems. Under terms of contract number 1003565, pertaining to the PHS agreement, Entergy is to pay \$.08 per Dth on each unit parked, plus \$35,000 a month. The agreement term is through October 2003 and provides for a Maximum Aggregate Quantity of 500,000 Dth with a limit for parking of 15,000 Dth/Day and for subsequent removal of 20,000 Dth/Day.

¹First Revised Sheet No. 861 and Second Revised Sheet No. 862, to FERC Gas Tariff, Sixth Revised Volume No. 1

3. CEGT requests that the Commission grant any waivers of the Commission's regulations which are necessary in order to make the tariff sheets effective as of May 16, 2003.

Notice, Interventions and Protests

4. The filing was noticed on May 21, 2003, with comments, protests or interventions due on or before May 28, 2003, as provided in Section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214), all timely motions to intervene are granted and any motions to intervene out of time are granted as of the date of this order. Granting late intervention at this stage of the proceedings will not disrupt the proceedings or place additional burdens on existing parties. No interventions or protests were filed.

Discussion

5. CEGT has not filed any copy of either agreement with Entergy. CEGT has only filed tariff sheets describing the transactions. First Revised Sheet No. 861 has eight footnotes. It appears that the purpose of the footnotes is to describe numerous and complex provisions associated with this transaction.

6. Further, although CEGT has filed tariff sheets, and not the contracts, to reflect the essential elements of these transactions, it has not included a statement affirming that either of these negotiated rate contracts does not deviate in any material aspect from the form of service agreement in the tariff. Such a statement is mandatory as required by the order on rehearing of the order issued in this proceeding giving CEGT the ability to negotiate rates pursuant to the Commission's negotiated rate policy.² Thus, the Commission does not have the requisite information to evaluate either new transaction to determine whether the agreements include material deviations and if so, whether that deviation might be unduly discriminatory or otherwise contrary to Commission policy. Therefore, the Commission will accept and suspend the tariff sheets, subject to refund and conditions and further review.

7. Based on the information available and because CEGT has not made the requisite statement that there are no material deviations with respect to this transaction, the Commission directs CEGT to file a copy of the agreements and any related contracts and documentation, so that the Commission can determine if the agreements are non-

²See 75 FERC ¶ 61,091 (1996); order on rehearing, 77 FERC ¶ 61,011 (1996).

conforming. Upon receipt of this information, the filing will be subject to further review to determine if it is consistent with the Commission's regulations and policies.

Suspension

8. Based upon a review of the filing, the Commission finds that First Revised Sheet No. 861 and Second Revised Sheet No. 862 have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. While the Commission does not ordinarily suspend negotiated rate filings, in the instant case the Commission lacks sufficient information to determine if any conditions should be imposed on the instant filing. Accordingly, the Commission will grant CEGT's request for waiver of the notice requirements and accept First Revised Sheet No. 861 and Second Revised Sheet No. 862 for filing, and suspend their effectiveness for the period set forth below, and permit them to become effective, subject to refund and conditions and further review.

9. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.³ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.⁴ Such circumstances exist here where the Commission is reviewing negotiated rate agreements that were filed pursuant to the procedures in the Commission's negotiated rate policy. Therefore, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect as proposed, subject to refund and conditions and further review.

The Commission orders:

(A) First Revised Sheet No. 861 and Second Revised Sheet No. 862, to FERC Gas Tariff, Sixth Revised Volume No. 1, are accepted and suspended, to be effective May 16, 2003, subject to refund and conditions and further review, as discussed in the body of this order.

(B) Waiver of the 30-day notice requirement of Section 154.207 of the Commission's regulations is granted.

³See Great Lakes Gas Transmission Co., 12 FERC ¶ 61,293 (1980).

⁴See Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980).

(C) CEGT must file the negotiated rate agreement contracts and any related contracts and documentation within 15 days of the date this order issues, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.